

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 24, 2004

IN RE:

PETITION FOR EXPEDITED REVIEW OF GROWTH CODE
DENIAL BY THE NUMBER POOLING ADMINISTRATOR
RELATING TO CITIZENS TELECOMMUNICATIONS
OF THE VOLUNTEER STATE, LLC

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DOCKET NO.
04-00254

ORDER APPROVING PETITION FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL

This matter came before Chairman Pat Miller, Director Sara Kyle, and Director Ron Jones of the Tennessee Regulatory Authority ("TRA" or the "Authority"), the voting panel assigned to this docket, at an Authority Conference held on August 24, 2004 for consideration of the *Petition of Citizens Telecommunications of the Volunteer State, LLC for Expedited Review of Central Office Code Denial* filed by Citizens Telecommunications of the Volunteer State, LLC ("Citizens") on August 9, 2004.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."¹ Among other things, the FCC adopted a mandatory

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (Report and Order and Further Notice of Proposed Rule Making) 15 FCC Rcd 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "First Report and Order"), see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁴ As the Pooling Administrator, NeuStar, which also serves as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. The life expectancy of the 865 NPA is projected to be the fourth quarter of 2015. Telecommunications service providers participating in number pooling in the area are required to submit their requests for additional numbering resources to the Pooling Administrator.

On August 5, 2004, Citizens submitted an application to the Pooling Administrator to obtain additional numbering resources for the purpose of meeting the numbering needs of its customer, St. Mary’s Health System, which receives its service from the Powell central office. St. Mary’s Health System has an immediate need for 4,000 sequential telephone numbers to support a new hospital expansion and doctors’ offices.

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98.

³ See 47 C.F.R. § 52.15(a); see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator)

⁴ In the *Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd 252, 2001 WL 1658101, ¶ 11 (Dec 28, 2001) (hereinafter “*Third Report and Order*”); see also 47 C.F.R. § 52.15(a)

The Pooling Administrator, citing Citizens' failure to meet its NXX Assignment Guidelines, denied the company's request on August 5, 2004. The guidelines require that a rate center must have a 70% utilization rate and that its estimated exhaust date not exceed six months. Citizens could not meet the first of these guidelines because the Powell Rate Center has a 70.313% utilization rate. The Company failed to meet the second prong in the guidelines since the estimated exhaust date is twelve (12) months. On August 9, 2004, Citizens filed with the Authority the *Petition of Citizens Telecommunications of the Volunteer State, LLC for Expedited Review of Central Office Code Denial*. Citizens requests that the Authority reverse the Pooling Administrator's denial of its application and order the assignment of the requested growth code blocks.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the Pooling Administrator's denial of Citizens' application is authorized by the FCC.⁵ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁶

⁵ *Third Report and Order*, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv).

⁶ *Third Report and Order*, ¶ 61

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁷

At the Authority Conference held on August 24, 2004, the voting panel assigned to this docket considered the *Petition of Citizens Telecommunications of the Volunteer State, LLC for Expedited Review of Central Office Code Denial*. After consideration of the record, the public interest, and this agency's responsibility to foster competition in the telecommunications industry,⁸ the panel voted unanimously to approve the petition of Citizens for expedited review and reversed the Pooling Administrator's denial of Citizens' request for additional numbering resources, specifically for the assignment of growth code blocks within the same NXX to Citizens for the Powell Rate Center.

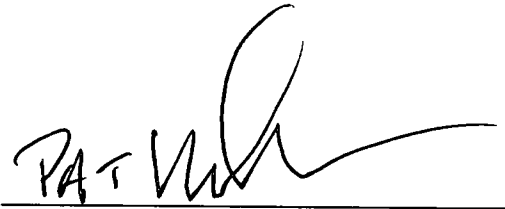
IT IS THEREFORE ORDERED THAT:

1. The *Petition of Citizens Telecommunications of the Volunteer State, LLC for Expedited Review of Central Office Code Denial* filed by Citizens Telecommunications of the Volunteer State, LLC is granted.
2. The Pooling Administrator's decision to deny Citizens' request for additional numbering resources is reversed as stated herein.

⁷ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis, that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another"), see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001).

⁸ See Tenn. Code Ann. § 65-4-123.

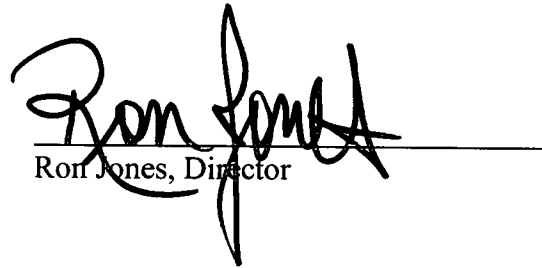
3. The Pooling Administrator is ordered to assign 4 blocks of 1,000 numbers within the same NXX to Citizens for the Powell Rate Center.

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Pat Miller, Chairman

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director